

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
4 State Bar No. 083047  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5339  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. *2011-978*

13 **CHARLES JOSHUA MARTIN**  
876 E. Divisadero Street, #210  
14 **Fresno, CA 93721**

**STATEMENT OF ISSUES**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs.

21 2. On or about December 20, 2010, the Board received an application for a registered  
22 nurse license from Charles Joshua Martin ("Respondent"). On or about December 20, 2010,  
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on March 18, 2011.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that  
27 the Board may deny a license when it finds that the applicant has committed any acts constituting  
28 grounds for denial of licensure under section 480 of that Code.

1 4. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds  
3 that the applicant has one of the following:

4 (1) Been convicted of a crime. A conviction within the meaning of this  
5 section means a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere. Any action which a board is permitted to take following the  
7 establishment of a conviction may be taken when the time for appeal has elapsed, or  
8 the judgment of conviction has been affirmed on appeal, or when an order granting  
9 probation is made suspending the imposition of sentence, irrespective of a subsequent  
10 order under the provisions of Section 1203.4 of the Penal Code.

11 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
12 substantially benefit himself or another, or substantially injure another; or

13 (3)(A) Done any act that if done by a licentiate of the business or  
14 profession in question, would be grounds for suspension or revocation of license.

15 (B) The board may deny a license pursuant to this subdivision only if the  
16 crime or act is substantially related to the qualifications, functions, or duties of the  
17 business or profession for which application is made . . .

18 5. Code section 2761 states, in pertinent part:

19 The board may take disciplinary action against a certified or licensed  
20 nurse or deny an application for a certificate or license for any of the following:

21 (a) Unprofessional conduct . . .

22 . . . .

23 (f) Conviction of a felony or of any offense substantially related to the  
24 qualifications, functions, and duties of a registered nurse, in which event the record of  
25 the conviction shall be conclusive evidence thereof . . .

26 6. Code section 2762 states, in pertinent part:

27 In addition to other acts constituting unprofessional conduct within the  
28 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing  
with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
the public the practice authorized by his or her license.

///

1 (c) Be convicted of a criminal offense involving the prescription,  
2 consumption, or self administration of any of the substances described in subdivisions  
3 (a) and (b) of this section . . .

4 7. Code section 2765 states:

5 A plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere made to a charge substantially related to the qualifications, functions and  
7 duties of a registered nurse is deemed to be a conviction within the meaning of this  
8 article. The board may order the license or certificate suspended or revoked, or may  
9 decline to issue a license or certificate, when the time for appeal has elapsed, or the  
10 judgment of conviction has been affirmed on appeal or when an order granting  
11 probation is made suspending the imposition of sentence, irrespective of a subsequent  
12 order under the provisions of Section 1203.4 of the Penal Code allowing such person  
13 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
14 the verdict of guilty, or dismissing the accusation, information or indictment.

15 8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

16 A conviction or act shall be considered to be substantially related to the  
17 qualifications, functions or duties of a registered nurse if to a substantial degree it  
18 evidences the present or potential unfitness of a registered nurse to practice in a  
19 manner consistent with the public health, safety, or welfare. Such convictions or acts  
20 shall include but not be limited to the following:

21 . . . .  
22 (c) Theft, dishonesty, fraud, or deceit . . .

### 23 FIRST CAUSE FOR DENIAL

#### 24 (Criminal Convictions)

25 9. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,  
26 subdivision (f), 480, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that Respondent was  
27 convicted of crimes which are substantially related to the qualifications, functions, and duties of a  
28 registered nurse, as follows:

a. On or about February 22, 1993, in the criminal proceeding titled *People v. Charles  
Joshua Martin* (Muni Ct. Santa Barbara County, 1993, Case No. 428164), Respondent pled no  
contest to violating Penal Code section 484, subdivision (a) (petty theft, a misdemeanor), and  
County Ordinance Code section 13A-3 (possession of drug paraphernalia, a misdemeanor). The  
imposition of Respondent's sentence was suspended and Respondent was placed on probation for  
3 years on terms and conditions. The circumstances of the crimes are as follows: On or about  
November 25, 1992, Respondent stole personal property belonging to victim G. M. At the time

1 of his arrest, Respondent had drug paraphernalia in his possession. On December 2, 1993,  
2 Respondent admitted violating the terms of his probation by virtue of his conviction for  
3 residential burglary, set forth in subparagraph (b) below. Respondent's probation was revoked  
4 and Respondent was sentenced to serve 150 days in the Santa Barbara County Jail.

5 b. On or about December 2, 1993, in the criminal proceeding titled *People v. Charles*  
6 *Joshua Martin* (Super. Ct. Santa Barbara County, 1993, Case No. 198746), Respondent pled  
7 guilty to violating Penal Code section 459 (residential burglary, a felony). The imposition of  
8 Respondent's sentence was suspended and Respondent was placed on probation for 5 years on  
9 terms and conditions, including that Respondent abstain from all alcoholic beverages.  
10 Respondent was also sentenced to serve 30 days in the Santa Barbara County Jail (to be served  
11 concurrently with his jail sentence for his conviction of February 22, 1993). The circumstances  
12 of the crime are as follows: On or about July 6, 1993, Respondent willfully and unlawfully  
13 entered victim C. M.'s home with the intent to commit larceny and a felony. On July 1, 1994,  
14 September 11, 1994, 1995, and April 10, 1997, Respondent violated the terms of his probation  
15 and on each occasion, his probation was reinstated.<sup>1</sup>

16 c. On or about April 15, 1994, in Santa Barbara County Superior Court, Case No.  
17 444119, Respondent was convicted of violating Penal Code section 148.9, subdivision (a)  
18 (presenting a false identity to a peace officer, a misdemeanor).

19 d. On or about May 6, 1994, in Santa Barbara County Superior Court, Case No. 444566,  
20 Respondent was convicted of violating Penal Code section 415, subdivision (1) (unlawfully  
21 fighting in a public place or challenging another person in a public place to fight, a  
22 misdemeanor).

23 e. On or about December 3, 2002, in the criminal proceeding titled *People v. Charles*  
24 *Joshua Martin* (Super. Ct. San Luis Obispo County, 2002, Case No. M000335106), Respondent  
25 pled guilty to violating Penal Code section 647, subdivision (f) (disorderly conduct: public  
26 drunkenness, a misdemeanor). The circumstances of the crime are as follows: On or about

27 <sup>1</sup> Respondent violated probation due to his non-compliance with the term requiring him to  
28 abstain from alcoholic beverages.

1 November 29, 2002, Respondent was in a public place under the influence of alcohol and was in  
2 such a condition that he was unable to exercise care for his own safety and the safety of others.

3 f. On or about November 18, 2010, in the criminal proceeding titled *People v. Charles*  
4 *Joshua Martin* (Super. Ct. San Luis Obispo County, 2010, Case No. M000451814), Respondent  
5 pled no contest to violating Vehicle Code section 23152, subdivision (b) (driving while having a  
6 .08% or higher blood alcohol, a misdemeanor). The circumstances of the crime are as follows:

7 On or about September 11, 2010, Respondent willfully and unlawfully drove a vehicle while  
8 having a blood alcohol level of .23%. The imposition of Respondent's sentence was suspended  
9 and Respondent was placed on probation for 3 years on terms and conditions.

#### 10 **SECOND CAUSE FOR DENIAL**

##### 11 **(Use of Alcoholic Beverages to an Extent or in a Manner 12 Dangerous or Injurious to Oneself and Others)**

13 10. Respondent's application is subject to denial pursuant to Code sections 2761,  
14 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3), in that on or about November  
15 29, 2002, and September 11, 2010, Respondent consumed alcoholic beverages to an extent or in a  
16 manner dangerous or injurious to himself, others, and the public, as set forth in subparagraphs 9  
17 (e) and (f) above.

#### 18 **THIRD CAUSE FOR DENIAL**

##### 19 **(Conviction of Criminal Offenses Involving 20 the Consumption of Alcoholic Beverages)**

21 11. Respondent's application is subject to denial pursuant to Code sections 2761,  
22 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3), in that on or about December  
23 3, 2002, and November 18, 2010, Respondent was convicted of criminal offenses involving the  
24 consumption of alcoholic beverages, as set forth in subparagraphs 9 (e) and (f) above.

#### 25 **FOURTH CAUSE FOR DENIAL**

##### 26 **(Dishonesty, Fraud or Deceit)**

27 12. Respondent's application is subject to denial pursuant to Code section 480,  
28 subdivision (a)(2), in that he committed acts involving dishonesty, fraud, or deceit with the intent

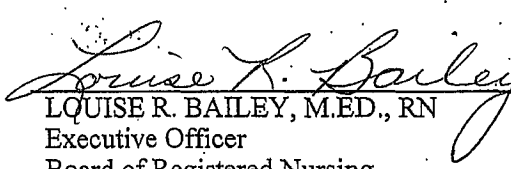
1 to substantially benefit himself or another, or substantially injure another, as set forth in  
2 subparagraphs 9 (a) through (c) above.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Denying the application of Charles Joshua Martin for a registered nurse license;  
7 2. Taking such other and further action as deemed necessary and proper.

8  
9 DATED: 06-13-2011

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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